THE HON'BLE SRI JUSTICE GODA RAGHURAM

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WRIT PETITION No.2097 OF 2006

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DATE: 16-02-2006

Between:

N.Konda Ramanna . . .Petitioner

and

The RDO, Srikakulam, and others . . .Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

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WRIT PETITION No.2097 OF 2006

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O R A L O R D E R:

Petitioner's authorization for running a fair price shop in Peddapadu Village, Srikakulam District was cancelled after a due process of enquiry by the orders of the first respondent, dated 24-01-2006. The petitioner was found guilty of seven charges alleged against him of variation in the stocks of rice and kerosene; failing to exhibit a stock-cum-price list board at the shop; failure to be present in the shop on the specified days; running the shop in unauthorized premises; not distributing the

available stocks of kerosene oil on the specified date and distributing kerosene oil with an unauthroised measuring instrument and the like.

As against the order of cancellation of authorization, the petitioner has an appellate remedy to the Joint Collector concerned.

Learned counsel for the petitioner contends that judicial review is an appropriate remedy and for this, he placed reliance on a decision of a Division Bench of this Court reported in **AMBATI SRINIVASULU v. DISTRICT COLLECTOR, NELLORE.** The Division Bench, per the Hon'ble the Chief Justice has considered in **AMBATI SRINIVASULU** a fact situation where the primary authority, the Revenue Divisional Officer had passed an order of cancellation of the authorization without recording reasons for the conclusion. The Revenue Divisional Officer had recorded by the order, dated 12-12-2004 that the explanation offered by the dealer was not convincing and hence, the authorization is cancelled. In the appeal, the Joint Collector by an equally laconic order in
abdication of the appellate obligation dismissed the appeal. In revision, the District Collector made a similar irrelevant adjudication. Having failed before the learned single Judge, the Writ Appeal came to be laid. It is, in this context and of the factual situation that the learned Division Bench came to the conclusion that principles of natural justice were grossly violated and there was a clear case of abdication of the primary, appellate and revisional quasi-judicial obligations.

The facts in this case are dissimilar. The primary authority, the Revenue Divisional Officer, whose order is impugned in this writ petition, has considered and extracted the charges laid against the petitioner, the explanation submitted by the petitioner to each of the charges, the material on record on the basis of which the primary authority had concluded that the charges are established and also the satisfaction on the basis of which the order of authorization was cancelled. This is thus not a case of total non-application of mind. On the nuances of whether the material on record was rationally considered and the evidence properly appreciated, in the considered view of this Court, such assessment is more appropriate in an appeal. Judicial review is normatively not on the merits of a decision but on the decision making process.

For the aforesaid reasons, in the considered view of this Court no case is made out for judicial review and in the context of the availability of an effective appellate

remedy under the applicable legal regime. This Court is not inclined to test the order of cancellation of authorization in judicial review.

The writ petition is accordingly dismissed. However, the petitioner is at liberty to pursue the appellate remedy. No order as to costs.

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(GODA RAGHURAM, J)

16th FEBRUARY, 2006.

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